

BRB No. 04-850 BLA  
Case No. 01-BLA-0194

KATHRYN HOLTSOI (Widow	)	
of ERNEST HOLTSOI)	)	
	)	DATE ISSUED: 09/02/2004
Claimant-Petitioner	)	
	)	
v.	)	
	)	
BHP MINERALS INTERNATIONAL	)	
	)	
Employer-Respondent	)	
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS,	)	
UNITED STATES DEPARTMENT	)	
OF LABOR	)	ORDER

Claimant has filed a Notice of Appeal of the administrative law judge's Decision and Order Denying Modification filed in the Office of the District Director on June 25, 2004.<sup>1</sup> 20 C.F.R. §802.205(a). Claimant's appeal is assigned the Board's docket number, BRB No. 04-850 BLA.

Section 802.205 of the Board's Rules of Practice and Procedure, 20 C.F.R. §802.205, provides that a Notice of Appeal must be filed within thirty (30) days from the date upon which the Decision and Order was filed in the Office of the District Director.

Section 802.221 of the aforementioned Rules provides that whenever the last day of the filing period falls on a Saturday, Sunday or legal holiday, the time for filing an appeal shall be extended to the next day that is not a Saturday, Sunday or legal holiday. 20 C.F.R. §802.221.

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<sup>1</sup> If claimant has or obtains evidence that establishes a change of condition or mistake of fact, she may request modification directly with the District Director. 33 U.S.C. §922; 20 C.F.R. §725.310. A copy of the procedures that claimant should follow if she chooses to pursue modification are enclosed with this Order.

In the instant case, the administrative law judge's Decision and Order was filed on June 25, 2004. The last day of the filing period ended on Sunday, July 25, 2004, therefore the filing date was extended to Monday, July 26, 2004. Claimant's appeal dated August 3, 2004, postmarked August 4, 2004 and received by the Board on August 9, 2004, should have been filed on or before Monday, July 26, 2004. Therefore, claimant's appeal is dismissed as untimely filed. 20 C.F.R. §§802.205, 802.221.

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ROY P. SMITH  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge